IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12743 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

KASHIBEN GOVANBHAI - Petitioner(s)
Versus
STATE OF GUJARAT THRO' THE SECRETARY & 2 - Respondent(s)

==========

Appearance :
MR RS SANJANWALA for Petitioner(s) : 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6,1.2.7
MR AMIT PATEL, ASST. OVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/05/2007

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioners have prayed for an appropriate writ, direction and/or order

directing the respondent No.2 to decide and dispose of Ganot Case No.44 of 1999 under section 70(O) of the Bombay Tenancy Act.

2. Shri SH Sanjanwala, learned senior advocate appearing on behalf of the petitioners has heavily relied upon the order passed by the learned Single Judge dated 3-4-2007 passed in MCA No.824 of 2007 in Special Civil Application No.11799 of 2005 and has submitted that in identical matter, the learned Single Judge has directed the concerned Mamlatdar to take an appropriate decision without prejudice to the rights and contentions of the State to prefer LPA and subject to any order that may be passed by the LPA Bench. Accordingly, respondent No.2 shall decide the matter as early as possible, preferably within a period of six months from the receipt of this order. However, it is directed that the said decision/proceedings shall be without prejudice to the rights and contentions of the State to prefer LPA challenging the judgment and order passed by the learned learned Single Judge of this Court dated 17th-18th-23th January, 2007 passed in Special Civil Application No.9609 of 2006 and other allied matters or the order passed in the said LPA in the event the LPA is preferred. Shri Sanjanwala has submitted that he has no objection if it is observed and directed that any decision by the Mamlatdar in Ganot case shall be subject to any order which may be passed by the LPA Bench and that in the event any order is passed by the LPA Bench, the rights of the parties

shall stand governed accordingly. Accordingly, it is clarified that any decision passed by the concerned Mamlatdar i.e. respondent No.2 herein in the Ganot Case shall be subject to any order which may be passed by the LPA Bench challenging the judgment and order passed by the learned learned Single Judge of this Court dated 17th-18th-23th January, 2007 passed in Special Civil Application No.9609 of 2006 and in the event any order passed by the LPA Bench, the rights of the parties shall stand governed accordingly and that the petitioners shall not claim any right on the basis of the order passed by the respondent No.2 in the Ganot Case, if ultimately any adverse order is passed in LPA, meaning thereby any order is passed in favour of the State Government.

3. With this, the present Special Civil Application is disposed of. DS permitted.

(M.R. Shah, J.)

shekhar/-